



TELECOMMUNICATIONS
ASSOCIATION OF MICHIGAN

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House Tax Policy Committee

Testimony of David D. White

Mr Chairman and members of the Tax Policy Committee. My name is David White. I am the Assistant Vice President for Tax Policy at AT&T and I serve on the Telecommunications Association of Michigan's tax policy committee. I am representing the Association and all its members today. I appreciate the opportunity to provide written testimony regarding the telecommunications equipment exemption. I would like to begin by thanking Chairman Sheen for introducing HBs 6277-78 and providing legislative oversight to this important tax issue facing the communications industry.

The State's communications infrastructure is a vital part of Michigan's economy. Therefore, we believe the taxability of such equipment should be determined by the legislature – and not left to Treasury officials to determine. The current sales/use tax statute provides the Department of Treasury with the ability to review and redetermine the current 90% communications equipment exemption after March 31, 2006 (utilizing “nonexempt and exempt user information.”)¹

We are not aware of another State that varies their communications equipment exemption based on whether the services provided are taxable or exempt. In fact, States that provide a sales tax exemption for the purchase of communication equipment (such as neighboring states Ohio and Indiana²) generally provide a 100% sales/use tax exemption. Or they provide some other type of tax incentive (for example, in Illinois, telecom equipment is 100% exempt from personal property taxes.³)

The communications industry objects to Treasury's ability to administratively adjust the equipment exemption based on exempt users or exempt services. Utilizing this methodology penalizes carriers for providing vital communication services to tax exempt consumers -- such as hospitals, K-12 schools, universities, police/fire departments, the U.S. military, state/federal government, charitable/non-profit organizations, etc, etc. It should be noted that manufacturers do not lose part of their industrial processing exemption because they sell a percentage of their goods to tax exempt customers.

Under the current methodology, communication providers would also be penalized because large businesses move facilities and jobs to Michigan. Call centers and data processing facilities are the largest consumers of tax exempt 1-800 services and interstate private line/data services.

¹ See MCL 205.54v(2) and MCL 205.94q. It should be further noted that distribution facilities (wire, fiber, etc) do not qualify for the communications equipment exemption.

² See Indiana Code section 6-2.5-5-13 and Ohio R.C. Sec 5739.02(B)(34)

³ See Article IX, Section 5 of the Illinois Constitution.

Rather than promoting the communication infrastructure to support and attract these facilities and jobs – an equipment exemption based on the current methodology (i.e., taking away part of the exemption based on exempt user information) could increase the tax on the very infrastructure that these facilities rely on.

If Treasury goes unchecked and administratively revises the communication equipment exemption downward, it could result in a significant tax increase on Michigan's communication infrastructure. However, by enacting HBs 6277-78, the legislature would remove Treasury's ability to administratively adjust the rate by permanently setting the communications equipment exemption at 100% (in line with surrounding states and Michigan's industrial processing exemption). In essence, HBs 6277-78 restore the 100% exemption which was in place prior to 2001.⁴

On behalf of the Telecommunications Association of Michigan, I thank Chairman Sheen and the Committee for considering HBs 6277-78. The telecommunication industry supports both bills and looks forward to working with the legislature on this important issue.

⁴ See *Michigan Bell Telephone v Department of Treasury*, 229 Mich App 229 (1998). In this case, the Michigan Dept of Treasury assessed Michigan Bell claiming that their equipment exemption should be reduced because some telecommunication services were exempt from use tax. The Michigan Supreme Court ruled that Treasury's interpretation of the existing statute was improper – and permitted Michigan Bell a 100% exemption.



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